REMARKS

Claims 1-11 were examined and reported in the Office Action. Claims 1-3, 5, 7, 10 and 11 are rejected. Claims 1, 7 and 8 are amended. Claims 1-11 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. Information Disclosure Statement

The information disclosure statement (IDS) filed October 8, 2003 fails to comply with 37 CFR §1.97, 1.98 and MPEP §609 because the reference by Zhu, Min-Li et al. "Branched NRD Guide Directional Coupler" does not contain a date. Applicant will submit a new IDS as soon as the missing information is received.

II. 35 U.S.C. § 102

It is asserted in the Office Action that claims 1, 3, 5, 7, 10 and 11 are rejected under U.S.C. §102(b) as being anticipated by Japan Patent No. 8-162813 issued to Sato ("Sato"), further exemplified by U.S. Patent No. 6,163,227 issued to Saitoh et al. ("Saitoh") with respect to claim 3, U. S. Patent No. 6,832,081 issued to Hiramatsu et al. ("Hiramatsu"), with respect to claim 10, and WO Patent No. 02/067368 issued to Shin ("Shin") with respect to claim 11. Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131, "'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990))."

Applicant's amended claim 1 contains the limitations of "[a] directional coupler using an non-radiative dielectric waveguide, comprising: upper and lower conductive plates having conductive planes opposite to and substantially parallel to each other and; a first NRD waveguide and a second NRD waveguide formed between said conductive plates and composed of dielectric having a predetermined permittivity; and a multiple-hole conductive plate formed between said first NRD waveguide and said second NRD waveguide, wherein the electric field component or the magnetic field component in the transmission mode of said NRD waveguides is coupled through said through hole formed in said multiple-hole conductive plate, and said multiple-hole conductive plate includes two rows of through holes."

Sato discloses a directional coupler using a non-radioactive dielectric (NRD) waveguide. Saitoh discloses prior art normal NRD waveguides with upper and lower non-grooved plates and hyper NRD waveguides with upper and lower grooved conductive plates. Hiramatsu discloses the longitudinal section magnetic (LSM) mode being a millimeter wave transmission mode of an NRD waveguide. Shin discloses an ultra high speed modulator using a coupler of an NRD guide.

Neither Sato, Saitoh, Hiramatsu nor Shin, however, teach, disclose or suggest "[a] directional coupler using an non-radiative dielectric waveguide, comprising: ... a multiple-hole conductive plate formed between said first NRD waveguide and said second NRD waveguide, wherein the electric field component or the magnetic field component in the transmission mode of said NRD waveguides is coupled through said through hole formed in said multiple-hole conductive plate, and <u>said multiple-hole conductive plate includes two rows of through holes</u>."

Therefore, since neither Sato, Saitoh, Hiramatsu nor Shin disclose, teach or suggest all of Applicant's claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to either Sato, Saitoh, Hiramatsu or Shin. Thus, Applicant's claim 1 is not anticipated by either Sato, Saitoh, Hiramatsu or Shin. Additionally, the claims that directly or indirectly depend on claim 1, namely claims3, 5, 7, 10 and 11, are also not anticipated by either Sato, Saitoh, Hiramatsu or Shin for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection for claims 1, 3, 5, 7, 10 and 11 is respectfully requested.

III. 35 U.S.C. § 103

It is asserted in the Office Action that claim 2 is rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Sato in view of Saitoh. Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142 "[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Further, according to MPEP §2143.03, "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." "*All words in a claim must be considered* in judging the patentability of that claim against the prior art." (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's claim 2 directly depends on amended claim 1. As asserted above in section I, neither Sato nor Saitoh teach, disclose or suggest all of Applicant's amended claim 1 limitations. In particular, neither Sato nor Saitoh teach, disclose or suggest "[a] directional coupler using an non-radiative dielectric waveguide, comprising: ... a multiple-hole conductive plate formed between said first NRD waveguide and said second NRD waveguide, wherein the electric field component or the magnetic field component in the transmission mode of said NRD waveguides is coupled through said through hole formed in said multiple-hole conductive plate, and said multiple-hole conductive plate includes two rows of through holes."

Therefore, even if Sato were combined with Saitoh, the resulting invention would still not include all of Applicant's claimed limitations. And, therefore, there would be no motivation to combine Sato with Saitoh. Thus, Applicant's amended claim 1 is not obvious over Sato in view of Saitoh since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claim that directly depends from amended claim1, namely claim 2, would also not be obvious over Sato in view of Saitoh for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claim 2 is respectfully requested.

IV. Allowable Subject Matter

Applicant notes with appreciation the Examiner's assertion that claims 4, 6, 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully asserts that claims 1-11, as they now stand, are allowable for the reasons given above.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-11 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: April 27, 2005

By: _____
Steven Laut, Reg. No. 47,736

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on April 27, 2005.

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Jean Svoboda